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94-105

September 19, 1994

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW - Room 222  
Washington, DC 20554

William F. Stewart  
Director

Joan Ouderkirk  
Chief Deputy

Construction and Real Property

Facilities Operations

Purchasing and Central Services

Information Technology Service  
Mark Gascoigne  
Acting General Manager

*Re: In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services; GN Docket No. PR94-SP3. /Petition of the People of the State of California and The Public Utilities Commission of the State of California to Retain State Regulatory Authority over Intrastate Cellular Service Rates.*

Dear Mr. Secretary:

The County of Los Angeles ("County") is an interested party in the California Public Utilities Commission's (CPUC's) Investigation (I.) 93-12-007, *Investigation on the Commission's own Motion into Mobile Telephone Service and Wireless Communications*. After thoroughly reviewing the comments and replies thereto submitted by the various parties to that investigation, the CPUC issued Decision (D.) 94-08-022 on August 3, 1994. Among other things, the CPUC found that:

- The duopoly structure for cellular services has created barriers to entry and has allowed the cellular duopolists licensed in each market area to price their services at non-competitive levels (Decision at 89-90);
- Cellular rates are very high in California relative to other parts of the country, despite decreases in capital and operating costs of providing the services (Decision at 90);
- The presence of excessive duopoly rents is reflected on investors' valuations of the cellular spectrum as compared to other spectrum valuations (Decision at 93); and
- The market share between the duopolist cellular carriers in California has remained virtually unchanged since these services were first introduced (Decision at 26-27).

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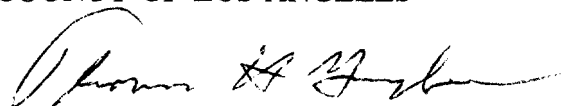
On the basis of these findings and pursuant to Section 332 (c)(3)(B) of the 1993 *Omnibus Budget Reconciliation Act*, the CPUC has petitioned the Federal Communications Commission (FCC) to "retain its existing regulatory authority on an interim basis over the rates for cellular service within California" (Petition at 1). The County strongly supports the CPUC's Petition and urges that it be afforded favorable treatment by the FCC. The County is one of the largest users of cellular service in the state, with annual expenditures for cellular service in the range of \$1.3-million. The County has experienced first-hand the monopolistic practices of the facilities-based cellular carriers that serve the Los Angeles area, and has advised the CPUC that in its view neither the present nor any near-term prospective level of competition is likely to improve the current market climate. The County urged the CPUC to file the above-referenced Petition and to continue to regulate cellular services in California until such time as the level of competition became sufficient to assure competitive outcomes and thereby obviate the need for continued regulatory oversight. The County believes that the CPUC already has rate-setting mechanisms in place, and is the logical and appropriate body to provide this oversight and constraints on the carriers' market power. Attached hereto and made a part hereof are the County's Initial and Reply Comments submitted to the CPUC in I. 93-12-007, which set forth in detail the experience of the County in dealing with the facilities-based cellular carriers and the County's analysis of industry conditions and required regulatory responses.

The CPUC's decision was based upon a well-developed factual record and accurately describes the prevailing state of cellular service markets in California. LA County strongly supports the CPUC's findings and urges the FCC to grant the CPUC's Petition to retain regulatory oversight of cellular rates for at least the 18 months that has been requested. Indeed, the County believes that such regulation should remain in place until competitive market conditions, and not the elapse of time, dictate otherwise.

Thank you for your consideration.

Respectfully submitted,

COUNTY OF LOS ANGELES



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cc: California Public Utilities Commission